

AMENDED IN ASSEMBLY JUNE 23, 2015

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE APRIL 28, 2015

SENATE BILL

No. 549

Introduced by Senator Hall

(~~Coauthor: Senator Stone~~)

(Coauthors: Senators Mendoza and Stone)

(Coauthors: Assembly Members Gray and Jones-Sawyer)

February 26, 2015

An act to add and repeal Section 320.6 of the Penal Code, relating to gaming.

LEGISLATIVE COUNSEL'S DIGEST

SB 549, as amended, Hall. Charitable raffles.

The California Constitution authorizes the Legislature to permit private, nonprofit, eligible organizations to conduct raffles as a funding mechanism to support beneficial and charitable works, if, among other conditions, at least 90% of the gross receipts from the raffle go directly to beneficial or charitable purposes in California. The California Constitution further authorizes the Legislature to amend the percentage of gross receipts required to be dedicated to beneficial or charitable purposes by a statute passed by a $\frac{2}{3}$ vote of each house of the Legislature. Existing statutory law implements those provisions and requires the Department of Justice to administer and enforce those provisions.

This bill would authorize a ~~raffle~~ *major league sports raffle at a home game* conducted by an eligible organization, as defined, for the purpose of directly supporting specified beneficial or charitable purposes in

California, or financially supporting another private, nonprofit, eligible organization, as defined, that performs those purposes if, among other requirements, each ticket sold contains a unique and matching identifier, 50% of the gross receipts generated from the sale of raffle tickets are used to benefit or provide support for beneficial or charitable purposes, as defined, the other 50% is paid to the winner, and the winners of the prizes are determined by a manual draw, as specified. The bill would authorize an electronic device to be used to sell tickets. *The bill would prohibit the use of a random number generator for the manual draw or sale of tickets.* This bill would define an eligible organization as a private, nonprofit organization established by, or affiliated with, a team from specified sports organizations that has been qualified to conduct business in California for at least one year ~~prior to~~ *before* conducting a raffle and is exempt from taxation pursuant to specified provisions of federal and California law.

The bill would require, if an eligible organization conducts a raffle for purposes of financially supporting another private, nonprofit, eligible organization, the eligible organization conducting the raffle to distribute to the other eligible organization all proceeds not paid out to the winners within 15 days of conducting the raffle. The bill would require an eligible organization to disclose to all ticket purchasers the designated private, nonprofit organization for which the raffle is being conducted.

This bill would also prohibit an eligible organization from conducting a raffle, and a manufacturer or distributor of raffle-related products or services from conducting business with an eligible organization for purposes of conducting a raffle pursuant to these provisions, without first having obtained and thereafter maintained a registration from the Department of Justice, as specified. This bill would authorize the department to issue regulations to enforce these provisions, to assess annual registration fees, as specified, to be deposited in the General Fund to cover the reasonable costs of establishing and operating this registration system, and would require the department to maintain a database of registrants and conduct specified proceedings in compliance with the Administrative Procedure Act. The bill would repeal its provisions on December 31, 2020.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 320.6 is added to the Penal Code, to read:

2 320.6. (a) Notwithstanding Section 320.5, this section shall
3 apply to an eligible organization, as defined in subdivision (c).

4 (b) A raffle conducted by an eligible organization, as defined
5 in subdivision (c), for the purpose of directly supporting beneficial
6 or charitable purposes or financially supporting another private,
7 nonprofit eligible organization, as defined in subdivision (c) of
8 Section 320.5, that performs beneficial or charitable purposes may
9 be conducted in accordance with this section.

10 (c) For purposes of this section, “eligible organization” means
11 a private, nonprofit organization established by, or affiliated with,
12 a team from the Major League Baseball, National Hockey League,
13 National Basketball Association, National Football League,
14 Women’s National Basketball Association, or Major League
15 Soccer, or a private, nonprofit organization established by the
16 Professional Golfers’ Association of America, Ladies Professional
17 Golf Association, or National Association for Stock Car Auto
18 Racing that has been qualified to conduct business in California
19 for at least one year ~~prior to~~ *before* conducting a raffle, is qualified
20 for an exemption under Section 501(c)(3) of the Internal Revenue
21 Code, and is exempt from taxation pursuant to Section 23701a,
22 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, 23701t,
23 or 23701w of the Revenue and Taxation Code.

24 (d) For purposes of this section, “raffle” means a scheme for
25 the distribution of prizes by chance among persons who have paid
26 money for paper tickets that provide the opportunity to win these
27 prizes, in which all of the following are true:

28 (1) Each ticket sold contains a unique and matching identifier.

29 (2) (A) Winners of the prizes are determined by a manual draw
30 from tickets described in paragraph (1) that have been sold for
31 entry in the manual draw.

32 (B) An electronic device may be used to sell tickets. The ticket
33 receipt issued by the electronic device to the purchaser may include
34 more than one unique and matching identifier, representative of
35 and matched to the number of tickets purchased in a single
36 transaction.

37 (€)

1 (C) A random number generator is not used for the manual
2 draw or to sell tickets.

3 (D) The prize paid to the winner is comprised of one-half or 50
4 percent of the gross receipts generated from the sale of raffle tickets
5 for a raffle.

6 (3) The manual draw is conducted in California under the
7 supervision of a natural person who meets all of the following
8 requirements:

9 (A) The person is 18 years of age or older.

10 (B) The person is affiliated with the eligible organization
11 conducting the raffle.

12 (C) The person is registered with the Department of Justice
13 pursuant to paragraph (4) of subdivision (o).

14 (4) (A) Fifty percent of the gross receipts generated from the
15 sale of raffle tickets for any given manual draw are used by the
16 eligible organization conducting the raffle to benefit or provide
17 support for beneficial or charitable purposes, or used to benefit
18 another private, nonprofit organization, provided that an
19 organization receiving these funds is itself an eligible organization
20 as defined in subdivision (c) of Section 320.5. As used in this
21 section, “beneficial purposes” excludes purposes that are intended
22 to benefit officers, directors, or members, as defined by Section
23 5056 of the Corporations Code, of the eligible organization. Funds
24 raised by raffles conducted pursuant to this section shall not be
25 used to fund any beneficial, charitable, or other purpose outside
26 of California. This section does not preclude an eligible
27 organization from using funds from sources other than the sale of
28 raffle tickets to pay for the administration or other costs of
29 conducting a raffle.

30 (B) An employee of an eligible organization who is a direct
31 seller of raffle tickets shall not be treated as an employee for
32 purposes of workers’ compensation under Section 3351 of the
33 Labor Code if the following conditions are satisfied:

34 (i) Substantially all of the remuneration, whether or not paid in
35 cash, for the performance of the service of selling raffle tickets is
36 directly related to sales rather than to the number of hours worked.

37 (ii) The services performed by the person are performed pursuant
38 to a written contract between the seller and the eligible organization
39 and the contract provides that the person will not be treated as an

1 employee with respect to the selling of raffle tickets for workers'
2 compensation purposes.

3 (C) For purposes of this section, an employee selling raffle
4 tickets shall be deemed to be a direct seller as described in Section
5 650 of the Unemployment Insurance Code as long as he or she
6 meets the requirements of that section.

7 (e) A person who receives compensation in connection with the
8 operation of the raffle shall be an employee of the eligible
9 organization that is conducting the raffle, and in no event may
10 compensation be paid from revenues required to be dedicated to
11 beneficial or charitable purposes.

12 (f) A raffle ticket shall not be sold in exchange for Bitcoin or
13 any other cryptocurrency.

14 (g) A raffle otherwise permitted under this section shall not be
15 conducted by means of, or otherwise utilize, any gaming machine
16 that meets the definition of slot machine contained in Section 330a,
17 330b, or 330.1.

18 (h) (1) A raffle otherwise permitted under this section shall not
19 be conducted, nor may tickets for a raffle be sold, within an
20 operating satellite wagering facility or racetrack inclosure licensed
21 pursuant to the Horse Racing Law (Chapter 4 (commencing with
22 Section 19400) of Division 8 of the Business and Professions Code)
23 or within a gambling establishment licensed pursuant to the
24 Gambling Control Act (Chapter 5 (commencing with Section
25 19800) of Division 8 of the Business and Professions Code).

26 (2) A raffle shall not be operated or conducted in any manner
27 over the Internet, nor may raffle tickets be sold, traded, or redeemed
28 over the Internet. For purposes of this paragraph, an eligible
29 organization shall not be deemed to operate or conduct a raffle
30 over the Internet, or sell raffle tickets over the Internet, if the
31 eligible organization advertises its raffle on the Internet or permits
32 others to do so. Information that may be conveyed on an Internet
33 Web site pursuant to this paragraph includes, but is not limited to,
34 all of the following:

35 (A) Lists, descriptions, photographs, or videos of the raffle
36 prizes.

37 (B) Lists of the prize winners.

38 (C) The rules of the raffle.

39 (D) Frequently asked questions and their answers.

(E) Raffle entry forms, which may be downloaded from the Internet Web site for manual completion by raffle ticket purchasers, but shall not be submitted to the eligible organization through the Internet.

(F) Raffle contact information, including the eligible organization's name, address, telephone number, facsimile number, or email address.

(i) An individual, corporation, partnership, or other legal entity shall not hold a financial interest in the conduct of a raffle, except the eligible organization that is itself authorized to conduct that raffle, and any private, nonprofit, eligible organizations receiving financial support from that charitable organization pursuant to subdivisions (b) and (d).

~~(j)~~

(j) (1) An eligible organization may conduct a major league sports raffle only at a home game.

(2) An eligible organization shall not conduct more than one major league sports raffle per home game.

(k) An employee shall not sell raffle tickets in any seating area designated as a family section.

(l) An eligible organization shall disclose to all ticket purchasers the designated private, nonprofit, eligible organization for which the raffle is being conducted.

(m) An eligible organization that conducts a raffle to financially support another private, nonprofit eligible organization, as defined in subdivision (c) of Section 320.5, shall distribute all proceeds not paid out to the winners of the prizes to the private, nonprofit organization within 15 days of conducting the raffle, in accordance with this section.

(n) Any raffle prize remaining unclaimed by a winner at the end of the season for a team with an affiliated eligible organization that conducted a raffle to financially support another private, nonprofit eligible organization, as defined in subdivision (c) of Section 320.5, shall be donated within 30 days from the end of the season by the eligible organization to the designated private, nonprofit organization for which the raffle was conducted.

(o) (1) (A) An eligible organization shall not conduct a raffle authorized under this section, unless it has a valid registration issued by the Department of Justice. The department shall furnish a registration form via the Internet or upon request to eligible

1 nonprofit organizations. The department shall, by regulation, collect
2 only the information necessary to carry out the provisions of this
3 section on this form. This information shall include, but is not
4 limited to, the following:

5 (i) The name and address of the eligible organization.

6 (ii) The federal tax identification number, the corporate number
7 issued by the Secretary of State, the organization number issued
8 by the Franchise Tax Board, or the California charitable trust
9 identification number of the eligible organization.

10 (iii) The name and title of a responsible fiduciary of the
11 organization.

12 (B) (i) The department may require an eligible organization to
13 pay a minimum annual registration fee of five thousand dollars
14 (\$5,000) to cover the reasonable costs of the department to
15 administer and enforce this section.

16 (ii) An eligible organization shall pay, in addition to the annual
17 registration application fee, one hundred dollars (\$100) for every
18 individual raffle conducted at an eligible location to cover the
19 reasonable costs of the department to administer and enforce this
20 section. This fee shall be submitted in conjunction with the annual
21 registration form.

22 (2) (A) A manufacturer or distributor of raffle-related products
23 or services shall not conduct business with an eligible organization
24 for purposes of conducting a raffle pursuant to this section unless
25 the manufacturer or distributor has a valid annual registration
26 issued by the department.

27 (B) The department may require a manufacturer or distributor
28 of raffle-related products or services to pay a minimum annual
29 registration fee of five thousand dollars (\$5,000) to cover the
30 reasonable costs of the department to administer and enforce this
31 section.

32 (3) An eligible organization shall register the equipment used
33 in the sale and distribution of raffle tickets, and shall have the
34 equipment tested by an independent gaming testing lab.

35 (4) (A) A person affiliated with an eligible organization who
36 conducts the manual draw shall annually register with the
37 department.

38 (B) The department may require a person affiliated with an
39 eligible organization who conducts the manual draw to pay a
40 minimum annual registration fee of ten dollars (\$10) to cover the

1 reasonable costs of the department to administer and enforce this
2 section.

3 (5) The department may, by regulation, adjust the annual
4 registration fees described in this section as needed to ensure that
5 revenues will fully offset, but not exceed, the reasonable costs
6 incurred by the department pursuant to this section. The fees shall
7 be deposited by the department into the General Fund.

8 (6) The department shall receive moneys for the costs incurred
9 pursuant to this section subject to an appropriation by the
10 Legislature.

11 (7) The department shall adopt regulations necessary to
12 effectuate this section, including emergency regulations, pursuant
13 to the Administrative Procedure Act (Chapter 3.5 (commencing
14 with Section 11340) of Part 1 of Division 3 of Title 2 of the
15 Government Code).

16 (8) The department shall maintain an automated database of all
17 registrants.

18 (9) A local law enforcement agency shall notify the department
19 of any arrests or investigation that may result in an administrative
20 or criminal action against a registrant.

21 (10) The department may investigate all suspected violations
22 of this section or any regulation adopted pursuant to this section,
23 or any activity that the registrant has engaged in that is not in the
24 best interests of the public's health, safety, or general welfare as
25 it pertains to charitable raffles.

26 (11) The department may audit the records and other documents
27 of a registrant to ensure compliance with this section, and may
28 charge a registrant the direct costs associated with an audit
29 conducted pursuant to this paragraph.

30 (12) (A) Once registered, an eligible organization shall file
31 annually thereafter with the department a report that includes the
32 following:

33 (i) The aggregate gross receipts from the operation of raffles.

34 (ii) The aggregate direct costs incurred by the eligible
35 organization from the operation of raffles.

36 (iii) The charitable or beneficial purposes for which proceeds
37 of the raffles were used, or ~~identify the identity of~~ the eligible
38 recipient organization to which proceeds were directed, and the
39 amount of those proceeds.

1 (B) Failure to submit the annual report to the department as
2 required in this paragraph shall be grounds for denial of an annual
3 registration.

4 (13) The department shall annually furnish to registrants a form
5 to collect this information.

6 (p) The department may take legal action against a registrant if
7 it determines that the registrant has violated this section or a
8 regulation adopted pursuant to this section, or that the registrant
9 has engaged in any conduct that is not in the best interests of the
10 public's health, safety, or general welfare. An action taken pursuant
11 to this subdivision does not prohibit the commencement of an
12 administrative or criminal action by the Attorney General, a district
13 attorney, city attorney, or county counsel.

14 (q) An action and hearing conducted to deny, revoke, or suspend
15 a registry, or other administrative action taken against a registrant,
16 shall be conducted pursuant to the Administrative Procedure Act
17 (Chapters 4.5 (commencing with Section 11400) and 5
18 (commencing with Section 11500) of Part 1 of Division 3 of Title
19 2 of the Government Code). The department may seek civil
20 remedies, including imposing fines, for violations of this section,
21 and may seek recovery of the costs incurred in investigating or
22 prosecuting an action against a registrant or applicant in accordance
23 with those procedures specified in Section 125.3 of the Business
24 and Professions Code. A proceeding conducted under this
25 subdivision is subject to judicial review pursuant to Section 1094.5
26 of the Code of Civil Procedure. A violation of this section shall
27 not constitute a crime.

28 (r) This section shall remain in effect only until December 31,
29 2020, and as of that date is repealed, unless a later enacted statute,
30 that is enacted before December 31, 2020, deletes or extends that
31 date.